

**STATEMENT OF THE
AMERICAN FARM BUREAU FEDERATION
TO THE
HOUSE COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON CONSERVATION, CREDIT, RURAL DEVELOPMENT
AND RESEARCH
REGARDING
THE STATUS OF METHYL BROMIDE
UNDER THE MONTREAL PROTOCOL**

**Presented by,
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Good morning Chairman Lucas, Mr. Holden and members of the subcommittee. My name is Rebeckah Freeman. I am director of congressional and regulatory relations for pesticides, crop protection and air quality issues for American Farm Bureau Federation, the nation's largest general farm organization. On behalf of our membership, I want to thank you for your interest in this precedent-setting challenge and for the opportunity to address the subcommittee regarding our alarm and disappointment over the critical use exemption (CUE) process under the Montreal Protocol.

Non-critical use of methyl bromide in the United States was completely phased-out at the beginning of this year, in compliance with the Montreal Protocol as incorporated in the federal Clean Air Act. Where economically and technically feasible alternatives exist, agricultural users have met the phase-out schedule and stopped using this fumigant. However, despite significant ongoing efforts to find alternatives, methyl bromide remains an indispensable pest control tool for important uses in crop production, grain storage, food processing and general pest management. For many agricultural users, methyl bromide is essential to their economic survival; for consumers, it assures a safe and reliable food supply. It is precisely these situations for which a CUE was designed and it should be available for appropriate agricultural uses.

I am here to make three points:

1. Securing continued, adequate availability of methyl bromide for domestic users through the critical use exemption process is economically essential, scientifically defensible and legally justified;
2. The Montreal Protocol CUE review process is broken and the United States should work actively to repair the system; and
3. In light of international reluctance to honor the terms of the protocol, Congress should work to assure that U.S. agricultural users have fair access to the methyl bromide needed to provide consumers a quality and affordable domestic product.

Importance

Methyl bromide has two main agricultural uses: fumigation of soil prior to planting – called pre-plant treatment, and fumigation of harvested commodities and foods -- called post-harvest treatment.

The use of methyl bromide as a pre-plant treatment is essential to the production of strawberries, tomatoes, grapes, almonds, walnuts, peppers, eggplant and cut flowers. To gain an economic perspective, a recent collaborative study by USDA and the University of Florida found that a complete ban on farm uses of methyl bromide for annual fruit and vegetable crops in California and Florida would result in estimated losses of “about \$200 million annually in gross shipping point revenues, which represented about 20 to 30 percent of estimated revenues from treated commodities in each state.”

Pre-plant treatment with methyl bromide controls soil-borne fungal pathogens and various pests that reduce vigor of newly planted crops, and right now there is no feasible alternative to this chemical. Methyl bromide is linked directly to improved yields because the need to hand weed and cultivate soil is reduced, resulting in more efficient irrigation. Better yields mean better margins. Better margins mean more financial stability. Poor yields mean less stability, in some circumstances putting a producer at risk of not getting next year’s planting loan.

Methyl bromide is used for post-harvest treatment used to meet sanitary standards set by the Food and Drug Administration and importing countries for grains, dry beans, raisins, prunes, figs, dates, almonds and walnuts. These products are typically treated before and during storage and prior to being packed or shipped. Storage structures, containers and processing facilities are also fumigated to ensure food safety.

For those without feasible alternatives, methyl bromide continues to be the only consistently effective and economical treatment that can be applied within a flexible timeframe without harm to the food product, or, in some circumstances, other natural resources. With rare exception, it works every time, all the time.

Since U.S. ratification of the Montreal Protocol, agriculture has devoted enormous time, effort and hundreds of millions of dollars to finding technically and economically feasible alternatives for methyl bromide. The good news is the U.S. has drastically decreased its non-essential use of methyl bromide because some alternative treatments and combinations have become available for some users. However the reality is that feasible alternatives do not exist – and are not expected soon – for the agricultural users currently requesting CUE consideration. Despite claims to the contrary, there simply is no one-size-fits-all replacement or combination of replacements that work as effectively, consistently or affordably as methyl bromide.

In the end, American consumers will suffer greatly from agriculture’s loss of methyl bromide. The phase-out means the United States will increasingly depend on imported food sources that are potentially less regulated, less reliable and less safe.

Broken Process

At previous oversight hearings on this issue, Members of Congress have voiced concerns about the international treatment of and fairness towards the U.S. CUE nomination. Unfortunately, Congress' concerns have not resonated within the international community and the Montreal Protocol process of granting CUEs grows steadily worse. For both 2005 and 2006, the justified U.S. CUE nomination was significantly cut by the international reviewers with little explanation or opportunity for meaningful reconsideration. We are not optimistic that the review of the 2007 nomination will fare much better. First-hand observers of the process believe that some of the more influential parties to the Protocol – most significantly the European Union - are asserting a “take it or leave it” stance position when reviewing and adjusting the U.S. nomination. We hope that members of this committee will join with us insisting on improvements to the international process.

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The terms of the protocol intend for the CUE process to provide relief to any user's critical, documented need for methyl bromide. Domestic agricultural users commit huge amounts of time, expertise and financial resources in preparing their annual individual CUE requests for the U.S. government. With the help of USDA, EPA invests considerable time and resources into submitting a thorough, consolidated CUE nomination package to the international reviewers. The State Department has gone to great lengths to advocate for American agriculture and defend the U.S. CUE request against relentless second-guessing from the parties. Unfortunately, most observers agree that the tremendous combined efforts of U.S. users and the federal government have borne little, if any, fruit.

The 2005 and 2006 “internationally approved” U.S. CUE allowances were cut significantly from their original nominations. For 2005, the parties even made up a new requirement specifically for the American market that capped U.S. domestic production at 30 percent in addition to demanding a reduced CUE limit. Nowhere in the protocol is there any mention of direct limitations solely on production. Unfortunately, because U.S. agriculture must have an approved CUE percentage to prepare for each future year's planting season, our delegation is effectively forced to continue to accept objectionable terms with little hope of meaningful recourse or remedy.

The U.S. government clearly lays out the necessary information to prove that the requirements for granting a CUE under the Montreal Protocol are met. The protocol specifies a country's CUE be based on technical and economic feasibility of alternatives: no where does the protocol “limit” or cap the amount of methyl bromide that can be justified to meet CUE needs. Despite this, the Parties consistently argue that a CUE should not be more than 30 percent of baseline – the last phase-down goal before phase out for non-critical uses. Farm Bureau strongly believes that unless there is a legitimate scientific concern, CUE approval should be based on real, sometimes fluctuating need and not subject to renegotiation to suit political ends.

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Many individuals and groups have questioned the legitimacy and objectivity of the CUE process. The actions of the international community – most recently at the Meeting of the Parties to the Protocol in Prague last November – graphically demonstrate that the international

process is not objective, transparent or science-based. Non-governmental participants, like Farm Bureau and other user groups, are not allowed to observe or listen to technical debates among the Parties regarding our domestic needs and circumstances. Were it not for the cooperation and willingness of the U.S. delegation to keep us updated, the very people who rely on this process for their livelihood would not know their fate until the Parties decide to publicize the final agreements at a wrap-up plenary session held in the waning hours of the last day of the Meeting.

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As stated in our policy, Farm Bureau supports “the use of a fair, science-based process for critical use exemptions. The process should contain a reliable, consistent set of standards equitable to all parties involved.” Like other Crop Protection Coalition groups, we are greatly concerned that the actions of some in the international and activist communities translate to other countries deciding the fate of American agriculture. We have seen and experienced enough of the Montreal Protocol process to be convinced that the CUE process – as it currently exists – cannot be relied on to fairly evaluate American agriculture’s legitimate methyl bromide needs. The actions of the international community clearly illustrate that the Protocol is no longer about ozone protection. Rather, rules are being changed to suit the political agendas and economic advantages of other countries – agendas that have nothing to do with environmental treaties and everything to do with putting American producers and consumers at risk.

The U.S. government signed the protocol in good faith. Congress ratified its terms into law, our country has drastically reduced the use of ozone depleting substances, and domestic users of methyl bromide have unequivocally justified their critical use needs to the international reviewers. We are holding up our end of the bargain. We have every right to expect the Parties to do the same.

Farm Bureau and other allied groups in the Crop Protection Coalition believe that immediate improvements must be made to the Montreal Protocol’s CUE process, specifically:

- (1) The CUE process must be science-based, fair to all participants and consistent with the terms in the protocol. Farm Bureau strongly believes that unless there is a legitimate scientific question, CUE approval should be based on real, sometimes fluctuating need, and not subject to renegotiation or limitation to suit political ends.
- (2) Given the current budget crisis, Congress should carefully evaluate the efficiency and effectiveness of U.S. monies appropriated for the multilateral fund sent to the Ozone Secretariate within the United Nations Environment Programme.
- (3) The U.S. should continue to urge the international process to allow for multi-year CUE requests. U.S. negotiators have proposed this concept to the parties, but so far it has been rejected with little debate on the merits. We support a multi-year CUE because it would streamline the application process and relieve yearly burdens on the applicants and agencies. Most importantly, a multi-year CUE would allow for better planning among users: better planning leads to more flexibility and more flexibility could lead to further reductions in the need for methyl bromide.

On behalf of Farm Bureau members nationwide, thank you for the opportunity to address the subcommittee today regarding this complex, issue. I will be pleased to answer any questions the subcommittee might have.

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